

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JENNIE COURTNEY, ETC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No.: 2:06-CV-00600-MHT
	)	
ANTHONY CLARK, et al.,	)	
	)	
Defendants.	)	

**HOLLIS & SPANN, INC.'S**  
**SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT**

Comes now the defendant Hollis & Spann, Inc. ("Hollis & Spann") and supplements its motion for summary judgment (Doc. 58) by adding thereto the following ground to those previously cited in its motion and supplements it brief and narrative in support thereof (Doc. 59) as follows:

**SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT**

6. The plaintiff has failed to state a cause of action against this defendant upon which relief can be granted due to the fact that the plaintiff has failed to name an expert in accordance with the Uniform Scheduling Order issued by this Court.

**SUPPLEMENTAL BRIEF AND NARRATIVE**

This ground is based on the following facts:

On August 9, 2006, the parties conducted a telephone Rule 26(f) meeting of the parties to discuss deadlines and discovery for this case and submitted their report of the

parties planning meeting (Doc. 18). On August 21, 2006, this Court entered its Uniform Scheduling Order, which among other deadlines, instructs the plaintiff to identify experts and provide Rule 26 reports by March 1, 2007 and the defendants by April 2, 2007 (Doc. 21; Section 8). The Uniform Scheduling Order also provides that “[a]ll parties are expected to comply with each and every provision of this order in a timely manner, and extensions will be granted in only extraordinary and unforeseeable circumstances.” (Doc. 21; ¶ 1).

The plaintiff’s complaints (original, first amended, and second amended)(Docs. 1, 38, 62, respectively) do not set forth any specific allegations against this defendant. This defendant is named under the Parties and Jurisdiction and Facts Sections of each complaint, but is not named under any Count Sections of the complaints nor any prayers for relief. No short and plain statement of the claims against Hollis & Spann are set forth in the complaint, and no simple, concise, or direct averments are found anywhere within the complaint as to Hollis & Spann as required by the Rule 8 of the Federal Rules of Civil Procedure.

Additionally, the plaintiff failed to disclose her expert witness by March 1, 2007, the deadline set forth by the Uniform Scheduling Order of this Court. The plaintiff then filed an untimely motion to extend expert deadline (Doc. 78) on March 2, 2007. On March 5, 2007, this defendant filed its objection to the plaintiff’s motion to extend her expert deadline (Doc. 79).

The plaintiff has failed to file any pleading substantively opposing any of the grounds set forth in Hollis & Spann's summary judgment motion as ordered by this Court on January 11, 2007 (Doc. 61). On January 23, 2007, the plaintiff filed an opposition (Doc. 66) which merely requested a continuance to obtain a copy of the plans and Hollis & Spann's discovery responses. This defendant then filed a Motion for Leave to File a Reply Brief (along with a reply brief) (Doc. 70) to provide the Court with its Voluntary Disclosure and to outline the plaintiff's failure to substantively respond to this Court's show cause order. In addition on February 2, 2007, Hollis & Spann timely provided the plaintiff with its interrogatory answers and response to requests for production, again offering documents for inspection or copying upon request. The plaintiff still has not sought to obtain Hollis & Spann's September 11, 2006 Voluntary Disclosure documents or its February 2, 2007 discovery documents.

WHEREFORE, THE PREMISES CONSIDERED, the defendant requests this Honorable Court to enter summary judgment in favor of the defendant dismissing this action and each count thereof and making said judgment final on the express grounds that there is no just reason for delay in entry of said judgment.

Respectfully requested,

/s/Steven K. Herndon

STEVEN K. HERNDON (HER028)

Attorney for Defendant Hollis & Spann, Inc.

OF COUNSEL:

Gidiere, Hinton, Herndon & Christman  
 60 Commerce Street, Suite 904  
 P. O. Box 4190 (36103)  
 Montgomery, AL 36104  
 Telephone: (334) 834-9950  
 FAX: (334) 834-1054  
[steve@ghhclaw.com](mailto:steve@ghhclaw.com)

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing was served on the following counsel of record by e-mailing and on the defendant inmates by placing a copy of same in the United States mail, postage prepaid and properly addressed this 29th of March, 2007:

<p><b>Attorneys for Plaintiff</b>                  Mr. Britt V. Bethea                  Mr. J. David Greene, Jr.                  Mr. Will G. Phillips                  Greene &amp; Phillips                  50 N. Florida Street                  Mobile, AL 36607                  Telephone: (251) 478-1115                  Facsimile: (251) 471-3920  <a href="mailto:jdgreene@greenephillips.com">jdgreene@greenephillips.com</a>  <a href="mailto:wgphillips@greenephillips.com">wgphillips@greenephillips.com</a></p> <p><b>Attorney for Defendant</b>  <b>Black Creek Integrated Systems Corp.</b>                  Mr. Bert Pittman Taylor                  Taylor &amp; Smith, PC                  P.O. Box 489                  Orange Beach, AL 36561-0489                  Telephone: (251) 981-8430                  Facsimile: (251) 981-8425  <a href="mailto:cyk@taylorritter.com">cyk@taylorritter.com</a></p>	<p><b>Attorneys for Defendants Anthony Clark, Jerry Wayne Edgar, and Walter Inabinett</b>                  Mr. Daryl L. Masters                  Mr. Gary L. Willford, Jr.                  Webb &amp; Eley, PC                  P.O. Box 240909                  Montgomery, AL 36124-0909                  Telephone: (334) 262-1850                  Facsimile: (334) 262-1889  <a href="mailto:rrobertson@webbeley.com">rrobertson@webbeley.com</a>  <a href="mailto:gwillford@webbeley.com">gwillford@webbeley.com</a></p> <p><b>Attorneys for Dickey &amp; Associates, Inc.</b>                  Mr. Alan Thomas Hargrove, Jr.                  Mr. Richard Brett Garrett                  Rushton, Stakely, Johnston &amp; Garrett, PC                  P.O. Box 270                  Montgomery, AL 36101-0270                  Telephone: (334) 206-3100                  Facsimile: (334) 262-6277  <a href="mailto:ath@rsjg.com">ath@rsjg.com</a>  <a href="mailto:bg@rsjg.com">bg@rsjg.com</a></p>
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**Defendants:**

James Darren Harnage AIS#239251  
P. O. Box 150  
Mount Meigs, AL 36057

Oscar Roy Doster AIS #177168  
P. O. Box 150  
Mount Meigs, AL 36057

/s/Steven K Herndon  
COUNSEL